IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16028 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DUROLAM LTD.

Versus

GEB

Appearance:

1. Special Civil Application No. 16028 of 2004

MR JIGAR P RAVAL for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

MR PREMAL R JOSHI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 24/12/2004

ORAL JUDGEMENT

RULE. Mr. Premal Joshi waives service of rule on behalf of the respondents. With the consent of the

parties, the matter is taken up for final hearing today.

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate direction, holding that the respondents are not legally entitled to demand charges from the petitioner and the demand of Rs.97,448=00 made pursuant to the demand notice dated 30th November, 2004, be quashed.

2. It appears from the record that earlier order with regard to demand came to be set aside by the learned Single Judge of this Court [N.N. Mathur, J. as he then was] vide order dated 12th April, 1996 in Special Civil Application No.2833 of 1995, wherein the Court has reserved the liberty to the appropriate authority to pass the order afresh after hearing the petitioner and with a further direction to the petitioner to appear before the General Manager (Commercial) on 22nd April, 1996. Moreover the respondents were directed to pass order afresh after hearing the petitioner.

2.1. It is the case of the petitioner that thereafter he had appeared before the General Manager (Commercial), but no orders were passed and straightway the impugned demand notice dated 30th November, 2004 was issued. Hence, the petitioner has prayed for the aforesaid reliefs.

3. Now, so far as the prayer of the petitioner holding that the respondents are not legally entitled to demand charges from the petitioner is concerned, considering the decision of this Court rendered in Special Civil Application No.2833 of 1995 dated 12th April, 1996, the same cannot be granted, as such, this Court has reserved liberty in favour of the respondents to pass appropriate orders afresh after giving opportunity of hearing to the petitioner and this Court has not set aside the demand for all time to come. So far as the demand notice dated 30th November, 204 is concerned, Shri Premal Joshi learned advocate appearing for the respondents has upon verification submitted that till date there is no fresh orders passed by the General Manager (Commercial) as directed by this Court vide order dated 12th April, 1996.

3.1. Under the circumstances, the demand notice dated 30th November, 2004 for the amount of Rs.97,448=00 cannot be sustained and the same is required to be quashed and set aside. Accordingly, the impugned notice dated 30th November, 2004, is quashed and set aside. However, it

will be open for the respondents to raise demand subsequently after the appropriate order is passed by the General Manager (Commercial), pursuant to the order passed by this Court in the aforesaid Special Civil Application.

4. With the above observations and directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[M.R. SHAH, J.]

/phalguni/